



# CITY OF WINTER GARDEN

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## OFFICE OF THE CITY CLERK

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## City Commission Charter Review Workshop October 13, 2005

Mayor Pro Tem Theo Graham called the Charter Review workshop to order at 8:45 p.m. with the following in attendance:

**CITY COMMISSION:** Mayor Pro Tem Graham, Commissioners Mildred Dixon, Carol Nichols, and Rod Reynolds

**CITY STAFF:** City Manager Mike Bollhoefer, Assistant to City Manager Marshall Robertson, City Clerk Kathy Golden, and Assistant City Clerk Angee Grimmage

City Manager Bollhoefer began his PowerPoint presentation (*see attached*) by stating that he would be presenting a basic overview of what a Charter Review is.

### **The Charter**

A Charter is the City's basic law that defines the organization, powers, functions, and essential procedures of a municipality. It is the Constitution of a municipality.

### **The National Civic League**

The National Civic League lists the following items that should be included in a Charter: powers of the City, defines the Commission, City Manager or other chief administrator, administrative departments, financial procedures, planning, nominations, initiative and referendum, general provisions and transitional provisions.

### **The Florida Department of Community Affairs (DCA)**

The DCA has a much narrower list of things they say should belong in a Charter, which is first the creation of a municipality, the corporate city limits, the legislative functions, the administrative or executive functions and the transition schedule, which is when you run for office and how long someone stays in office. The reason he is showing these things is because people are saying that there are too many things being added in our State Constitution. They are using the Constitution to legislate instead of just keeping those basic items that should be in a Constitution and that is the idea behind what a Charter is. Including too much in the Charter becomes cumbersome and the municipality ends up legislating through the Charter and not through ordinances.

### **Statutory Requirements**

The only statutory requirements for a Charter are that it has to describe the form of government; i.e., strong mayor form of government or the city manager form of government. It must clearly define the legislative and executive responsibility. It cannot prohibit the City Commission from levying any tax authorized by the Constitution or general law; i.e., if there is a legal tax, the Charter cannot stop the tax.

### **Statutory Limitations**

The Charter does not include annexations or mergers and cannot include what the State Constitution prohibits. It also cannot include any subject preempted by state or county government. The county supersedes municipalities when it comes to laws and City Charters. The county recently passed some charter amendments that will be causing us some issues in the very near future.

### **Procedure**

Steps include reviewing the existing government and charter and a review of affected ordinances. There is also a review of procedures and interrelations in your government. Another good idea is to study other cities and other charters to see what they have done to help determine the best practices. The Commission will want to look at how this charter can be changed to make our government work or run better. After these items have been looked at, the Commission will then want to start getting all their ideas down and devise a logical order. He emphasized that during the Charter Review process it is important to win the respect and confidence of the citizens throughout the process because the proposed changes will eventually go to a referendum vote and it is the citizens who make the final decision on any Charter changes.

### **Tools**

Some of the basic tools can include public hearings, workshops, reviews, and interviews. Our Charter does not contain any outlines or guidelines as to how we do a Charter Review so therefore it is open to what the Commission can do during the Charter Review. There are many types of tools and that is why looking to other cities can help in the process. Part of the process could be input from former Commissioners, staff, or speaking with members of prior Charter Review Committees. Another source could be elected officials from other cities, recognized government experts and definitely input from the public throughout the whole process because in the end, it is the public that votes on it. Every proposed amendment needs to be tracked by who made it, by section, and by substance, whether it is a kept change or not.

It is also very important to establish the procedural rules as to how the items are to be approached. For example, it could be voted on first as to whether or not they even want to consider the change and that question could be passed by a vote 2/5 and then it could take a 3/5 vote to accept the proposed change.

### **Complicated Process**

The main point is that there are many ways to do a Charter Review. It is an extremely complicated and time-consuming process, but very important because it is in effect “setting up the constitution of your City” and it could exist for many years. The review may include a recommendation for an automatic review every 10 years and by doing so, the revised Charter

would be in effect for the next 10 years or by a special Charter referendum. The process often takes from a half to a full year, depending on the extent of the process.

One example is the City of Gainesville who recently completed their Charter Review that took nine meetings over a seven-month period. They limited their Charter Review to only three items: terms of commissioners, term limits, and election dates and cycles. This has been provided as an example of how even small items have taken seven months.

### **Questions**

Should the Commission serve as the review committee or should the Commission create a separate review committee? One disadvantage of the Commission serving is whether or not they have the extra time. The advantage of the Commission serving is that when it comes to voting on the item, they will have already seen all the ideas and are much more familiar with the item.

Should the changes be done by piecemeal or as a whole? The Municipal Code review of our Charter shows that 75 percent, if not more, needs to be changed. Most of the suggested changes are because most of the items did not belong in the Charter but belonged in the Code of Ordinances. The entire Charter can be reviewed article by article and fix it all, which is very difficult to do and would take a very long time. The Commission could also review certain types of issues and deal with main articles, which is much easier and much more manageable. Another question is how the citizens will vote on the proposed changes. Will the entire proposed Charter amendments be voted on as one package or by voting on each article? The advantage of the second choice is that it would be more like a line item veto as opposed to the other choice which would result in throwing out the entire Charter amendment when possibly the voter only did not approve of one item. You will want to establish schedules and procedures to avoid dragging out the process. If the Commission decided to initiate a Charter Review by committee, the first important step is to educate the committee so they can get a good understanding of what they are to do.

The next item is how the Commission will make appointments to the committee. One common method is each member of a five member Commission selects two people and the Mayor selects three in order to keep the committee at an odd number to avoid tie votes.

The last question is whether there would be a special election or a vote as part of the regular election in March of each year.

### **Recommendations**

The next step could be to contract with a skilled facilitator who would conduct a second workshop with the City Commission. A facilitator is recommended because they can provide the expertise to make sure meetings run smoothly. They also can assist in the administrative tasks. The Commission could formulate questions at that workshop and then conduct a third workshop to make the decisions. This may seem like a lot of work upfront but if it is done right up front, it will run smoother and save a lot of time in the long term. The Florida League of Cities and the Institute of Government both can provide facilitator services and he strongly urged the Commission to proceed in this direction. Once a process has been decided, the very next step would be to have the Attorney draft a resolution to authorize the Charter study.

### **Conclusion**

This is a very important process and should not be taken lightly because it can affect everybody in the community for a long time. He reiterated that the Commission should be very careful in the initial steps that sets the tone for the entire process and strongly encouraged the use of a facilitator. Mr. Bollhoefer opened for any questions or comments from the Commission.

**Commissioner Dixon** stated that a Charter Review is not an easy task and she does not see how Winter Garden has gone this long without a Charter Review. Representatives from the County Elections Office, School Board and others will need to come and present their findings to the Commission before the Commission makes a final decision. Local cities have already gone through this process and their Commissioners selected a couple people to serve. Since this affects the community, the community should start giving their input on things they don't like. **City Manager Bollhoefer** responded that the reason the process takes so long is because when you look at making Charter changes, you have to look at how it may affect our ordinances and our structure.

**Commissioner Reynolds** stated that he is in favor of getting all the professional help that we can get. It is a very important responsibility and we owe it to the community to do the best that we can. He agreed with Mr. Bollhoefer's presentation on how it should be handled. Some things the Commission may decide to change could affect a lot of things they may not even consider. It needs to be done right. **City Manager Bollhoefer** added that you always have to worry about those unintended consequences.

**Commissioner Dixon** stated the Department of Community Affairs is well versed on what we need to do. The facilitator will facilitate the meeting so it will not be getting out of hand.

**City Manager Bollhoefer** stated he just wanted to point out that the process is open and there is not a whole lot of guidance about restrictions. That is why he believes the Commission will want to have trained people giving the Commission guidance.

**Commissioner Nichols** stated that she feels our current Charter is in such a deplorable condition that this time around it is going to take a lot of work to get it straight so the next time it's reviewed it will be an easier process. This review will almost be like creating the wheel.

**Commissioner Reynolds** noted that he wants to deal with the Charter now because he has children that are growing up here and will live in this town.

**Commissioner Dixon** stated that the Charter should certainly be reviewed at least every 20 years. **Commissioner Nichols** stated that the period for review would be part of the new Charter. **City Manager Bollhoefer** stated that in his opinion review periods is a great element.

**Mayor Pro Tem Graham** stated that the Charter has been revised since he has been on the Commission back in either late 80's or early 90's. **Commissioner Dixon** stated that the Charter has not been reviewed in a long time. **Commissioner Graham** stated that if he said reviewed,

he meant revised. **Commissioner Dixon** stated that Charter review and revisions are something different.

**Commissioner Nichols** stated that the first step is to find someone to come in and help us make the decision on how to set up our process. **City Manager Bollhoefer** stated that his recommendation is to get an expert to give the Commission guidance in the very critical beginning stages and possibly use the facilitator throughout the process.

**Commissioner Dixon** stated that when this is all finished, it will be reviewed by the DCA and it is good to get some advice from them first. We are not trying to copy anyone else because Winter Garden is different.

**Mayor Pro Tem Graham** stated that he does not think this will be reviewed by the state. We cannot change state laws but our Charter is made up by the City. **Commissioner Reynolds** stated that this process is the ultimate fundamental element of self-rule. It lies within the power of this Commission. **Commissioner Dixon** stated that she knows all about the power of this Commission but if you violate someone's rights, they can do something about it. **City Manager Bollhoefer** stated there are not many limitations.

**Mayor Pro Tem Graham** stated the approval of any Charter revisions will be by the constituents of Winter Garden. If good advice is given, the City Commission will not break any laws and our legal counsel will review it.

**City Attorney Bedell** stated that in the late 90's he attended some of the State Constitutional Revision Commission meetings and it was fascinating to listen to how some of the items had evolved. Some of the ideas the Commission thought they were going to have to change were later debated and input was received that changed what they had thought originally. It was a great lesson in democracy and is a huge undertaking. Setting things up the right way and setting good clear ground rules at the beginning might be difficult but it will pay off in the end.

**City Manager Bollhoefer** stated that he will do two things: find facilitators and provide that information to the Commission, and provide educational literature to the Commission outside of what the facilitator will provide.

**Commissioner Nichols** requested that Mr. Bollhoefer check into educational information for those serving on the review committee. **City Manager Bollhoefer** responded, "absolutely."

**Commissioner Dixon** asked if the next workshop would be a separate workshop without a Commission meeting. **Mr. Bollhoefer** stated that when we get to that level, it might be the best because it is very hard to go through a Commission meeting and then concentrate on something this important. **Commissioner Reynolds** and **Commissioner Nichols** voiced their agreement. **Mr. Bollhoefer** stated that he just wanted to go through this tonight to get it started. We will get a facilitator to work with the Commission and then see what is needed after that.

The Charter Review workshop concluded at 9:13 p.m.

